

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

DEFENDING THE REPUBLIC,

Plaintiff,

v.

FOOD AND DRUG ADMINISTRATION,

Defendant.

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CIVIL ACTION NO. 3:22-cv-1237-E

**JOINT MOTION REQUESTING THE COURT TO ENTER AN ORDER SETTING A  
BRIEFING SCHEDULE**

Plaintiff, Defending the Republic, and Defendant, United States Food and Drug Administration (“FDA”) respectfully move for the Court to enter an order setting a briefing schedule to determine an appropriate production schedule for documents in this Freedom of Information Act (“FOIA”) case. In support of the motion, the parties state the following:

1. This case involves Plaintiff’s FOIA request to FDA for “all data and information submitted by Moderna relating to the FDA review and approval of Spikevax.”
2. Pursuant to this Court’s order dated July 19, 2022, the parties submitted an initial joint status report stating, among other things, that they were negotiating a production schedule and the scope of Plaintiff’s request and that it may be necessary to brief those issues for the Court if the parties were unable to reach an agreement. ECF No. 18. Subsequently, the parties submitted joint status reports about their continued negotiations. *See* ECF Nos. 19, 20. Once the parties determined they were unable to reach agreement, the parties proposed a briefing schedule to present their arguments on the issue of an appropriate production schedule. ECF No. 22 at ¶ 5; ECF No. 23 at ¶ 4; ECF No. 24 at ¶ 4.

3. The Court has not yet entered an order setting a briefing schedule. The parties, therefore, request the Court to issue an order setting the following briefing schedule:
- a. February 22, 2023: Plaintiff will file its brief and any declaration(s) and/or other exhibits in support of its proposed production schedule.
  - b. March 22, 2023: Defendant will file its opposition and any declaration(s) and/or other exhibits in support of its proposed production schedule.
  - c. The parties further propose a page limit of 35 pages for each party's brief.

Respectfully submitted,

s/ Travis Miller

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 23, 2023, I e-filed the foregoing using the CM/ECF system, which serves all counsel of record.

s/ Travis Miller  
Travis Miller